THE HONOURABLE SRI JUSTICE GODA RAGHURAM

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W.P.No.9907 OF 2006

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DATE: 21.05.2006

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Between:

T.P. Subhadra

…. Petitioner

And:

The Estate Officer, Hyderabad and Secunderabad,

Khairatabad, Hyderabad and another

….Respondents

ORDER:

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The order of the first respondent vide No.B1/A1/MC-95/1611/05, dated 20.04.2006 issued under Section 5(1) of the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1968 (fort short "the Act") ordering eviction of the petitioner is assailed in this writ petition.

Admittedly, the petitioner retired from service on attaining the age of superannuation on 31.10.2005. While in service, she was allotted Government Quarter No.MC-95 at Malakpet Colony, Hyderabad. The petitioner's entitlement

to continue in the Government quarter stood determined on her superannuation.

On 23.01.2006, a show cause notice under Section 4 (1) of the Act was issued intimating the petitioner that she was in unauthorized occupation of the Government quarter in question i.e. without obtaining any permission from the Competent authority, in contravention of the allotment of Government Quarters Rules 1973. The petitioner failed to submit any explanation to the said show cause notice within the stipulated time. Thereafter, a personal hearing was afforded on 20.03.2006. The petitioner presented herself and requested time for vacating the quarter in question. Despite adequate opportunity, the petitioner failed to vacate the premises.

According to the impugned order, the Government Quarter, now in the occupation of the petitioner, was allotted to one
B. Devandranath, Assistant Section Officer, A.P. Public Service Commission, Hyderabad vide Government Memo No.72414/Accom C2/2005-3, dated 19.07.2005 and he is waiting for vacation of the quarter by the petitioner for his occupation. Under these circumstances, after due process of law and adequate opportunity provided, as the petitioner's unauthorized occupation of the Government quarter was established, by the impugned order the first respondent ordered eviction under Section 5 (1) of the Act.

In this writ petition, the petitioner admits that she had submitted a representation on 27.04.2006 to the Government requesting for extension of time for a period of four months for staying in the quarter. Except stating that her pension and pensionary benefits have not yet been released by the Accountant General, Hyderabad the petitioner fails to establish any legal right to continue in the quarter. As rightly held and recorded by the first respondent in the impugned order, the quarters are meant for occupation by serving Government Officers. The petitioner has admittedly superannuated and has no right to continue in occupation. The fact that no pensionery benefits were

released in her favour is not a circumstance, which entitles her to continuation in the Government quarter. She may be entitled to proceed against such authority or authorities for unreasonable withholding or delay in releasing pensionary benefits, but she is not entitled to continue in occupation of the Government quarter for that reason. In the absence of any entitlement in law, no Mandamus can be issued. There is no discernable error in the impugned order.

At this stage of the matter, the learned counsel for the petitioner, having obtained oral instructions from the petitioner, states that as the petitioner is a widow and is likely to be forcibly evicted by 11.00A.M. on 22.05.2006, some time may be granted for vacating the premises. After obtaining instructions, the learned counsel for the petitioner undertakes that the petitioner would on her own vacate the premises on or before 4.00 P.M. on 25.05.2006.

Recording the undertaking submitted on behalf of the petitioner by the learned counsel for the petitioner and making this undertaking a part of this order, the respondents are directed not to take coercive steps to evict the petitioner from Quarter No.MC-95, at Malakpet Colony, Hyderabad till 4.00PM on 25.05.2006. Thereafter, the respondents shall be at liberty to evict the petitioner by using all coercive processes of the State as are available in law.

The writ petition is dismissed with the above directions.

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JUSTICE GODA RAGHURAM

Date: 21.05.2006

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